

### **REMARKS**

Reconsideration and allowance are respectfully requested. Claims 1-53 are pending in this application. Claims 1, 14, 27, and 36 have been amended by Applicant's choice in a non-narrowing manner. The reason for the amendments to claims 1, 14 and 36 is to provide antecedent basis for the encoder. Claims 27 and 46 are amended to correct informalities and to clarify that the suggestion is to alter data to be transmitted.

#### **Rejection of Claims 1-7, 10-20, 23-30, 33-39, 42-48, and 51-53 Under Section 102(b)**

The Examiner rejected claims 1-7, 10-20, 23-30, 33-39, 42-48, and 51-53 Under Section 102(b) as being anticipated by U.S. Patent No. 5,014,125 to Pocock et al. ("Pocock"). Applicant respectfully traverses this rejection since Pocock fails to teach each element of the claims, as explained below.

#### **Claim 1**

The Examiner rejected claim 1 and asserted that Pocock teaches each element of claim 1. Claim 1 recites a computer-readable medium storing instructions adapted to be executed on a processor to perform a number of steps. These steps include to analyze, at the receiver, the quality of the displayed data, formulate, at the receiver and based on the analysis in the analyzing step, a media-parameter suggestion for the encoder to alter the characteristics of data to be sent to the receiver and send, from the receiver, the formulated suggestion.

Applicant asserts that Pocock fails to teach at least the instructions stored on the computer-readable medium to analyze, at the receiver, the quality of the displayed data, to formulate at the receiver and based on the analysis, a media-parameter suggestion for the

encoder to alter the characteristics of data to be sent to the receiver and to send from the receiver the formulated suggestion.

First, the Examiner points to column 8, line 41 to column 9, line 14 for support of disclosure that anticipates the step of analyzing at the receiver the quality of the displayed data. Applicant submits that this portion of Pocock fails to teach this limitation of claim 1. These paragraphs of Pocock disclose a method wherein the user can retrieve additional information regarding a video program, the additional information being retrieved from a telephone interface and combined with a background signal from the audio signal from the video program or television program. Further disclosure in this section discusses how the user can order, via a remote control unit, a selected presentation and how the disclosed system transmits this user request and responds. Applicant respectfully submits that nothing in the cited section discloses analyzing at the receiver the quality of the displayed data. This portion of Pocock simply discusses different subject matter than that recited in claim 1.

Regarding the step of formulating at the receiver a media-parameter suggestion for the encoder to alter the characteristics of data to be sent, the Examiner asserts that column 14, lines 39-53 and column 16, line 42 to column 17, line 2 disclose this step. Applicant respectfully traverses this interpretation of Pocock. Lines 39-53 of column 14 teach a presentation system that can indicate whether background music should be on or off for any specific segment. The presentation system can provide an instruction to the controller 104 within a user terminal via the telephone lines or by means of a vertical blanking interval in a video frame, for controlling the muting circuit 108 within the user terminal. First, Column 10, lines 29-31 and FIG. 1 indicate that the "presentation system" 10 is clearly not

the “receiver”, or user terminal 14 as taught by Pocock. The presentation system is more appropriately interpreted as a transmitter wherein the user terminal more appropriately corresponds to the recited receiver in claim 1. The Examiner uses the example from Pocock of changing background music as discussed in Column 14. However, Pocock teaches that the presentation system (transmitter) can selectively suppress the instructional audio portion or the informational audio portion of an audio segment part. Therefore, Pocock actually teaches away from the present invention since it teaches that the presentation system (transmitter) sends a signal to the controller 104 within the user terminal (receiver) to control a muting circuit within the user terminal (receiver). Further, Column 14 is Pocock discusses audio data only and claim 1 clearly requires an analysis of the quality of displayed data. Therefore, the formulation of a media-parameter suggestion is based on an analysis of displayed data, which is not taught in Pocock since he only mentions the transmitter providing parameter changes regarding audio information.

Next, the Examiner also cites column 116, line 42 to column 17, line 2 as anticipating the step of formulating a media parameter suggestion at the receiver and based on the display data analysis. There are several reasons that Pocock simply does not disclose this limitation. First, column 16, line 42 begins a discussion by Pocock of how the presentation system (transmitter) can download to the local controller of the user terminal program data used for changing the functionality of the user terminal (receiver) according to a particular service requirement. Clearly, Pocock’s data transmission path is opposite of what is recited by claim 1 since claim 1 recites formulating at the receiver the media parameter suggestion. Second, the program data downloaded from the presentation system as taught by Pocock in column 16 and 17 are not formulated at the receiver and based on an

analysis performed at the receiver of the quality of the displayed data. The Examiner pointed to only audio information when citing disclosure from Pocock that the Examiner asserted anticipates the step of analyzing the quality of the displayed data.

The only meaningful discussion in columns 16 and 17 regarding data sent from the user terminal to the presentation system is in column 17, lines 34-48, wherein Pocock teaches that the user terminal can execute internal routines to verify the performance of the terminal. When a fault is detected, the information is transmitted to the presentation system for correction prior to the time the subscriber requires the system. However, this differs from the invention recited in claim 1 since Pocock fails to teach formulating a media parameter suggestion at the receiver. As mentioned above, Pocock teaches that the user terminal receives instructions from the presentation system to execute some internal diagnostic routines. Pocock fails to teach or suggest that the user terminal formulates any media parameter suggestion based on an analysis of the quality of the displayed data.

Finally, the Examiner asserts that the last step of claim 1, namely sending from the receiver the formulated suggestion, is also anticipated by columns 16 and 17 of Pocock. As mentioned above, Pocock fails to teach sending a media-parameter suggestions formulated at the receiver. Pocock does teach that the controller 104 in the user terminal (receiver) may be instructed to dial the system controller to transmit information to the controller. Pocock further teaches that the user terminal may be requested by the presentation system to transmit and upload the viewer's progress such as name and high score if playing a game. However, Applicant asserts that none of the information generated at the user terminal of Pocock or transmitted to the presentation system from the user terminal

anticipates or can fairly be interpreted to anticipate the limitations set forth in claim 1. Therefore, Applicant asserts that claim 1 is patentable and in condition for allowance.

#### Claims 2-7

The Examiner rejected claims 2-7 also in view of Pocock. Claim 2 depends from claim 1 and recites the further step of receiving at the receiver a user preference to be used in the analysis of the quality of the displayed data. The Examiner asserts that Pocock teaches this feature at column 11, lines 9-28. While Pocock teaches receiving user keypresses to enable a user to receive an opening presentation of choice, Pocock is silent with regards to the limitation of claim 2 – namely that the user preference is used in the analysis of the quality of the displayed data. The user preferences taught by Pocock have nothing to do with an analysis of the quality of displayed data, but rather relate to the user selecting an opening presentation such as the “Yellow Pages” type of directory database. Clearly, Pocock does not mention or fairly suggest that his user preferences relates in any way to an analysis, at the receiver, of the quality of displayed data. Accordingly, Applicant respectfully submits that claim 2 is not anticipated by Pocock and is in condition for allowance.

Claim 3 depends from allowable claims 1 and 2 and recites further limitations therefrom. Accordingly, Applicant submits that claim 3 is also patentable over Pocock and in condition for allowance. Claim 4 depends from allowable claims 1 and 2 and recites further limitations therefrom. Accordingly, Applicant submits that claim 4 is also patentable over Pocock and in condition for allowance. Claim 5 depends from allowable claims 1 and 2 and recites further limitations therefrom. Accordingly, Applicant submits that claim 5 is also patentable over Pocock and in condition for allowance.

The Examiner asserts that claim 6 is anticipated by Pocock since Pocock teaches a synchronization procedure for the transmission of all of the video frames. However, Applicant submits that synchronizing video frames differs from formulating a media-parameter suggestion including the steps of sending timing information identifying a point in time where the data was collected and sending timing information identifying the point in time when the suggested action should be honored. Applicant urges the Examiner to remember that claim 6 depends from claim 1 and that the step of formulating a media parameter suggestion is still based on the quality analysis of the displayed data. As mentioned above with reference to claim 1, Pocock fails to perform this quality analysis of displayed data. Therefore, these further steps associated with formulating a media parameter suggestion that relate to timing information is clearly not taught by Pocock's disclosure of video frame synchronization. Accordingly, Applicant submits that claim 6 is patentable and in condition for allowance.

Similarly, claim 7 includes the limitations of claim 1 wherein formulating the media parameter suggestion is based on the quality of the display data analysis. Claim 7 further recites altering the frame rate as part of the formulation of the media parameter. As mentioned above, Pocock fails to teach these limitations of claim 1 and the further limitation of altering the frame rate is not taught nor fairly suggested by the capability of Pocock to change the frame rate. Accordingly, Applicant submits that claim 7 is patentable and in condition for allowance

#### Claims 10-13

The Examiner rejected claims 10-13 as being anticipated by Pocock. Each of claims 10-13 depends from claim 1, which as explained above, is patentable. Therefore, each of claims 10-13 is also patentable and in condition for allowance.

#### Claims 14-20

Claims 14-20 are method claims reciting a method of transmitting data from a sender to a receiver across a network. Claim 14 includes similar limitations to claim 1 but in a method format. Applicant applies the principles and discussion above relative to claim 1 and submits that an accurate and fair interpretation of Pocock in view of claim 14 leads to a conclusion that claim 14 is clearly patentable and in condition for allowance.

Claims 15-20 depend from independent claim 14 and recite further limitations therefrom. Accordingly, since parent claim 14 is patentable, Applicant submits that claims 15-20 are also patentable.

#### Claims 23-30

Claims 23-26 depend from claim 14 and recite further limitations therefrom. Accordingly, Applicant submits that these claims are also patentable and in condition for allowance.

Claim 27 recites a method for transmitting data across a network, the method comprising receiving from the receiver a suggestion to alter future transmitted data, and selecting, based on the received suggestion, an action to alter the future transmitted data, and altering the future transmitted data. Applicant amended claim 27 to further clarify the invention with regards to the transmitted data and that the suggestion is received from the receiver. These amendments are made to clarify the invention and not to introduce narrowing amendments to overcome the Pocock reference. Specifically, as mentioned

above with reference to claim 1, Pocock fails to teach a suggestion for altering future transmitted data coming from the receiver. Claim 27 recites receiving from the receiver a suggestion for altering future data. Further, based on the received suggestion (from the receiver, not the transmitter as in Pocock), claim 27 recites selecting an action to alter data to be transmitted and then alters the data. As mentioned above with reference to claim 1, Pocock teaches that the presentation system (transmitter) controls the user terminal (receiver), which is a different control mechanism that is recited in claim 27. Accordingly, Applicant submits that claim 27 is patentable over Pocock and in condition for allowance.

Claims 28-30 depend from claim 27 and add further limitations therefrom. Since claim 27 is allowable, Applicant submits that claims 28-30 are patentable and in condition for allowance as well.

#### Claims 33-35

Claims 33-35 depend from claim 27 and add further limitations therefrom. Since claim 27 is allowable, Applicant submits that claims 33-35 are patentable and in condition for allowance as well.

#### Claims 36-39 and 42-45

Independent claim 36 recites an apparatus for transmitting data from a sender to a receiver, the apparatus comprises a memory storing instructions adapted to be run on a processor. The instructions are similar to those stored on claim 1's computer-readable medium. Accordingly, Applicant submits that claim 36 is patentable along with claim 1. Applicant submits that since Pocock fails to teach an apparatus having these limitations as are recited in claim 36, that claim 36 is patentable and in condition for allowance. Claims



37-39 and 42-45 depend from claim 36 and recite further limitations therefrom.

Accordingly, these claims are patentable as well.

Claims 46-48 and 51-53

Claim 46 recites an apparatus for transmitting data from a sender to a receiver, the apparatus comprising a memory storing instructions for receiving from the receiver a suggestion to alter future transmitted data. As mentioned above with reference to the limitations of claim 27, Pocock fails to teach receiving suggestions from the receiver for altering future transmission data. Accordingly, Applicant submits that claim 46 is patentable and in condition for allowance.

Applicant notes that claim 46 was amended in a similar fashion as claim 27 in order to clarify the invention and not to introduce limitations in order to overcome the Pocock reference.

Claims 47-48 and 51-53 each depend from claim 46 and recite further limitations therefrom. Accordingly, since these claims depend from an allowable parent claim, these claims are patentable and in condition for allowance as well.

**Rejection of Claims 8-9, 21-22, 31-32, 40-41, and 49-50 Under Section 103**

The Examiner rejected claims 8-9, 21-22, 31-32, 40-41, and 49-50 under Section 103 as being obvious over Pocock in view of U.S. Patent No. 5,673,401 to Volk et al. ("Volk"). As mentioned above, Applicant submits that Pocock fails to teach each limitation of claim 1. Claims 8-9 depend from claim 1 and therefore, even if combined, Pocock and Volk fail to teach each limitation of claims 8-9. Accordingly, since Pocock fails to teach each element of the parent claim to claims 8 and 9, Applicant submits that claims 8 and 9 are patentable and in condition for allowance.

Claims 21-22, 31-32, 40-41 and 49-50

Similarly, Applicant submits that since the respective parent claims to claims 21-22, 31-32, 40-41, and 49-50 are patentable as set forth above, that these dependent claims, even if Pocock were combined with Volk, are nevertheless patentable over the combination of references and are in condition for allowance.

**CONCLUSION**

Having addressed the rejection of claims 1-53, Applicant respectfully submits that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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**Version with Markings Showing Changes Made****In the Claims:**

1. (Amended) A computer-readable medium storing instructions adapted to be executed on a processor to:

- (a) display, at a receiver, received data;
- (b) analyze, at the receiver, the quality of the displayed data;
- (c) formulate, at the receiver and based on the analysis in step (b), a media-parameter suggestion for [the] an encoder to alter the characteristics of data to be sent to the receiver; and
- (d) send, from the receiver, the formulated suggestion.

14. (Amended) A method of transmitting data from a sender to a receiver across a network comprising:

- (a) displaying, at the receiver, received data;
- (b) analyzing, at the receiver, the quality of the displayed data;
- (c) formulating, at the receiver and based on the analysis in step (b), a media-parameter suggestion for [the] an encoder to alter the characteristics of data to be sent to the receiver; and
- (d) sending, from the receiver, the formulated suggestion to alter the quality of the received data.

27. (Amended) A method of transmitting data across a network comprising:

- (a) transmitting data to a receiver;

- (b) receiving, from the receiver, a suggestion to alter [the] future transmitted data;
- (c) selecting, based on the received suggestion, an action to alter the future transmitted data; and
- (d) altering the future transmitted data.

37. (Amended) An apparatus for transmitting data from a sender to a receiver across a network comprising:

- (a) a processor;
- (b) a port coupled to said processor; and
- (c) a memory coupled to said processor and said port, storing instructions adapted to be run on said processor to:
  - (i) display, at the receiver, received data;
  - (ii) analyze, at the receiver, the quality of the displayed data;
  - (iii) formulate, at the receiver and based on the analysis in (ii), a media-parameter suggestion for [the] an encoder to alter the characteristics of data to be sent to the receiver; and
  - (iv) send, from the receiver, the formulated suggestion to alter the quality of the received data.

47. (Amended) An apparatus for transmitting data from a sender to a receiver to a receiver across a network comprising:

- (a) a processor;

(b) a port coupled to said processor; and

(c) a memory coupled to said processor and said port, storing instructions

adapted to be run on said processor to:

(i) transmit data to a receiver;

(ii) receive, from the receiver, a suggestion to alter [the] future  
transmitted data; [and]

(iii) selecting, based on the received suggestion, an action to alter the  
future transmitted data; and

(iv) altering the future transmitted data.